

BACKGROUND CHECK PROCESS

Pursuant to Tennessee Board of Regents Guideline P-010, *Personnel Transactions and Recommended Forms*, background checks of candidates recommended for specified positions at the University of Memphis will be conducted. This process helps ensure that individuals are selected who possess the qualifications to perform the duties of the position most effectively and who are best able to serve the institution. Background checks may include, but are not necessarily limited to confirmation of the individual's identity; review of an individual's criminal conviction record, if any; and/or verification of any license, certificate or degree required for the position. The President or her designee shall designate positions requiring background checks within the institution.

The University of Memphis Employment Office or the Search Committee chair will verify that advertised requirements for the position have been met, e.g., education, licensure, certification, and prior experience. However, the University will use a third party agency for other background checks. At this time, third party background checks of applicants will be limited to a *criminal* background check. A criminal background check will be conducted on all finalist candidates for regular full-time and part-time non-faculty positions, tenure track faculty, clinical faculty, and instructors on one-year appointments that are renewable for another two years. Current employees applying for a different position at the University and applicants for temporary appointments will not be subject to a criminal background check *unless* they are applying for one of the sensitive positions identified in Attachment 6 to this policy.

Individuals subject to background checks should be made aware of this practice at the earliest possible stage in the application process. Appointment to or continued employment in a specified position is contingent upon an acceptable background check, and any written offer of employment must contain notice of this contingency. Under most circumstances, background checks will be completed prior to appointing a person to the position. However, should a background check be initiated or the results provided after employment has begun, the results shall be used to assess the employee's suitability for continued employment. If employment is begun prior to receipt of the results of the background check, the employment contract should state that continued employment is conditioned upon an acceptable background check.

The Department of Human Resources is responsible for ensuring that the Disclosure and Authorization Form required by the Fair Credit Reporting Act (FCRA) is completed and received on all candidates for applicable positions processed through the Human Resources Office. For non-faculty positions handled through a Search Committee, the chair of the committee will be responsible for obtaining the Disclosure and Authorization Forms required by FCRA and submitting the forms to the Department of Human Resources. For faculty positions, the Academic Personnel Services Department will be responsible for obtaining the Disclosure and Authorization Forms required by FCRA and submitting the forms to the Department of Human Resources. If any candidate/employee refuses to sign the Disclosure and Authorization Form, no further consideration will be given to that candidate/ employee. **No background check may be requested until this form is completed, and no job offer can be extended until a**

background check has been completed or a FCRA Disclosure and Authorization Form signed by the applicant has been received in the Department of Human Resources.

The Department of Human Resources will fax or send via software the background check request to the background check agency. The background check agency will normally respond within 24 to 48 hours of receipt of the form. When unsatisfactory, job related results are received, the Department of Human Resources will notify the appropriate departmental hiring authority or Search Committee Chair for non-faculty positions or the Provost or his designee, when faculty positions are involved.

The Department of Human Resources, with oversight by the Assistant Vice President for Human Resources, will be responsible for reviewing and evaluating the information received from the agency. When faculty positions are involved, the Provost or his designee will participate in this evaluation. If the consumer report contains information upon which it is determined that the candidate/employee either does not possess the qualifications necessary to perform the duties of the position most effectively or would not be the best candidate to serve the institution in the subject position, an offer of employment, promotion, or transfer, if applicable, should not be made.

In all instances where information is obtained that would disqualify the candidate/employee or make him or her a questionable risk for hire, promotion, transfer or continued employment, the Assistant Vice President for Human Resources or her designee will discuss the information obtained through the background check with the University's Office of Legal Counsel in order to try to ensure that the decision is both fair and legal based upon the nature of the information obtained.

Detention and/or arrest without conviction do not constitute valid grounds for employment decisions and **cannot** play a part in the decision-making process. Only criminal convictions or pleas of nolo contendere will be considered in determining a candidate's or employee's suitability for employment or continued employment. In determining suitability for employment where there is a record of criminal conviction, consideration shall be given to such issues as the specific duties of the position, the number of offenses and circumstances of each, how long ago the conviction occurred, whether the circumstances arose out of an employment situation, and the accuracy of the explanation of the nature and circumstances of the conviction as stated by the applicant on the employment application.

If adverse action is to be taken based in whole or in part on the information obtained from the background check, additional provisions of the FCRA must be followed. Prior to taking adverse action, the Department of Human Resources must provide the candidate or employee with a copy of the background check report, along with a summary of rights. After the adverse action is taken, the candidate or employee must be given an adverse action notice.

The background check agency conducting the background check will charge a fee for each check conducted, and as a rule, the Department of Human Resources will pay for this expense. Generally, the background of only the finalist for a specific position will be checked. If the hiring

department or the Search Committee requests background checks on multiple applicants for the same position, the hiring department will fund the additional expense.

The Department of Human Resources will serve as the custodian of the records for background check results. Background checks on individuals who are not placed in the position should be kept in the Department of Human Resources with the search material.

FAIR CREDIT REPORTING ACT
DISCLOSURE AND AUTHORIZATION FORM

The University of Memphis may request, or has decided to request, a consumer report to be obtained from a consumer reporting agency to assist it in making a decision pertaining to your application for employment, reclassification, transfer or retention as an employee at the University of Memphis.

You are considered a “consumer” under the Fair Credit Reporting Act and have certain rights thereunder. A “consumer reporting agency” is a person or business that, for monetary fees, regularly assembles or evaluates consumer credit information or other information on consumers for the purpose of furnishing consumer reports. A “consumer report” is any written, oral or other communication of any information by a consumer reporting agency concerning a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living which is used or collected for the purpose of serving as a factor in establishing the consumer’s eligibility for employment purposes.

The information requested may include, but not be limited to: verification of identification and/or Social Security number; checks of criminal history, if any; and verification of employment, education, and credentials or licenses held by you. **YOUR CREDIT HISTORY WILL NOT BE REQUESTED OR RECEIVED BY THE UNIVERSITY OF MEMPHIS.** Any information contained in such reports may be taken into consideration in evaluating your suitability for employment, promotion, reclassification, transfer or retention as an employee.

By your signature below, you indicate that you authorize and consent to the release of consumer reports to the University of Memphis to be used in connection with your application for employment, promotion, reclassification, transfer or retention at the University of Memphis. If you fail or refuse to execute this document, no further consideration will be given to your application for employment, promotion, reassignment or retention as an employee.

Signature: _____ Date: _____

For Identification Purposes Only

Please print:

Last Name	First Name	Middle Name
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Previous/Maiden Name(s): _____

Social Security Number: _____

Date of Birth: _____

Current Address: _____

Former addresses within the past 10 years if outside your current county of residence:

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____



[Date]

[Name and address of applicant/employee]

Re: Pre-Adverse Action Notification

Dear _____:

Pursuant to the Fair Credit Reporting Act, 15 U.S.C. Section 1681, et. Seq., the University of Memphis is required to notify you of its intent to take adverse action based in whole or in part on the consumer report it has obtained for employment purposes. Adverse action means that the University of Memphis intends to deny your application for employment, promotion, reclassification, transfer or retention as an employee.

A copy of the consumer report and a summary of your rights under the Fair Credit Reporting Act are enclosed with this letter. No adverse action will be taken before *[insert the date five or more days, as appropriate, from the date of this notice]*. If you wish to discuss this matter, you may contact:

Mary Ann Camp, Assistant Vice President
for Human Resources
The University of Memphis
171 Administration Building
901-678-2866
901-678-1518
macamp@memphis.edu

Sincerely,

Assistant Vice President for Human Resources

Enclosures:

Consumer Report
Summary of Rights

Summary of Rights

Outdated information may not be reported. In most cases, a consumer reporting agency (CRA) may not report negative information that is more than seven years old; ten years for bankruptcies.

Access to your file is limited. A CRA may provide information about you only to people with a need recognized by the FCRA—usually to consider an application with a creditor, insurer, employer, landlord, or other business.

Your consent is required for reports that are provided to employers, or reports that contain medical information. A CRA may not give out information about you to your employer, or prospective employer, without your written consent. A CRA may not report medical information about you to creditors, insurers, or employers without your permission.

You may choose to exclude your name from CRA lists for unsolicited credit and insurance offers. Creditors and insurers may use file information as the basis for sending your unsolicited offers of credit or insurance. Such offers must include a toll-free phone number for you to call if you want your name and address removed from future lists. If you call, you must be kept off the lists for two years. If you request, complete and return the CRA form provided for this purpose, you must be taken off the lists indefinitely.

You may seek damages from violators. If a CRA, a user or (in some cases) a provider of CRA data, violates the FCRA, you may sue them in state or federal court.

The FCRA gives several different federal agencies authority to enforce the FCRA:

FOR QUESTIONS OR CONCERNS REGARDING:	PLEASE CONTACT:
CRA's, creditors and others not listed below	Federal Trade Commission Consumer Response Center – FCRA Washington, DC 20580 - 202/326-3761
National Banks, federal branches/agencies of foreign banks (word “national” or initials “N A” appear in or after bank’s name)	Office of the Comptroller of the Currency Compliance Management, Mail Stop 6-6 Washington, DC 20219 - 800/613-6743
Federal Reserve System member banks (except national banks and federal branches/agencies of foreign banks)	Federal Reserve Board Division of Consumer & Community Affairs Washington, DC 20551 - 202/452-3693
Savings associations and federally chartered savings banks (word “Federal” and initials “F.S.B.” appear in federal institution’s name)	Office of Thrift Supervisors Consumer Programs Washington, Dc 20552 - 800/842-6929
Federal Credit Unions (words “Federal Credit Union” appear in institution’s name)	National Credit Union Administration 1775 Duke Street Alexandria, VA 22314 - 703/518-6360
Some chartered banks that are not members of the Federal Reserve System	Federal Deposit Insurance Corporation Division of Compliance & Consumer Affairs Washington, DC 20429 - 800/934-FDIC

Air, surface, or rail common carriers regulated by former Civil Aeronautics Board or Insurance Commerce Commission	Department of Transportation Office of Financial Management Washington, DC 20590 - 202/366-1306
Activities subject to the Packers and Stockyards Act, 1921	Department of Agriculture Office of Deputy Administrator – GIPSA Washington, DC 20250 - 202/720-7051

[Date]

[Name and address of applicant/employee]

Re: [Application for Employment] [Promotion/reclassification/Transfer/Retention]

Dear _____:

This letter shall serve to notify you that, after careful consideration, [*insert appropriate language such as*: we have determined not to offer you employment at this time; or, the offer of employment, made contingent on receipt of an acceptable background check, has been withdrawn]. This decision was made, in whole or in part, on information contained in a consumer report obtained with your written authorization and consent.

The consumer report was compiled and provided by:

Kroll Background America, Inc.
1900 Church Street, Suite 400
Nashville, TN 37203

Telephone 615-822-0687

Kroll did not make any decision or participate in making any decision concerning your employment, and cannot provide you with reasons for this decision. Nevertheless, you have the right to contact Kroll to dispute the accuracy or completeness of any information contained in the consumer report. Although you have already received a copy of the consumer report and a summary of rights with the pre-adverse action notice, you have the right, upon providing proper identification, to obtain from Kroll an additional free copy of any consumer report provided to the University of Memphis in connection with your application. You must make this request to the consumer reporting agency within sixty (60) days.

Sincerely,

Mary Ann Camp
Assistant Vice President

Guidelines for Assessing Criminal Background Reports

Effective August 15, 2002

If any convictions, regardless of category or severity, appear on a report AND the applicant did not fully disclose the conviction on the application for employment, the applicant will be considered ineligible for employment based on falsification of application.

Offenses Against Persons

The more common offenses that include force/violence include, but are not limited to the following:

Simple Assault – a misdemeanor	Consider age of person when the crime was committed, how long ago, repeat offenses, location of the crime, associated charges for which there was a conviction.	Hire - Maybe Decision to hire may be supported if the offense was committed at a young age, happened only once, several years ago with no repeat offenses, or if other circumstances warrant.
Aggravated Assault – a felony	Consider circumstances such as how long ago the crime occurred and use of weapon. May want to get clarification from the applicant.	Hire – Probably Not Decision to hire would be difficult to support unless extenuating circumstances merit. Full documentation of reasoning would be approved by Legal and put in the employee’s file
Reckless Endangerment – a misdemeanor	Although a person convicted of this offense recklessly engaged in conduct which placed or could have placed another person in imminent danger of death or serious bodily injury, we should determine more about the situation that led to this conviction, consider the age of person when the crime was committed, how long ago,	Hire - Maybe Decision to hire may be supported if the offense was committed at a young age, happened only once, several years ago with no repeat offenses, or if other circumstances warrant.

	repeat offenses, location of the crime, and associated charges and convictions.	
Reckless Endangerment – a felony	This offense involves placing another person in imminent danger of death or serious bodily injury <u>and</u> involves the use of a deadly weapon. It is a Class E felony. Applicants with this type conviction would be considered a risk to our student population and others on campus.	Hire - No
Vehicular Assault – a felony	This offense involves driving under the influence of intoxicants; however, serious bodily injury was caused as a result. Consider circumstances such as how long ago the crime occurred and use of weapon. May want to get clarification from the applicant.	Hire - Maybe Decision to hire may be supported if the offense was committed at a young age, happened only once, several years ago with no repeat offenses, or if other circumstances warrant.
Sexual Assaults - Aggravated Rape/ Rape/Aggravated Sexual Battery/Sexual Battery	Convictions for sexual assault and other sex crimes involving force and/or violence are serious and applicants with such convictions would be considered a risk to our student population and others on campus.	Hire – No
Robbery – Class C felony Aggravated Robbery – Class B felony Especially Aggravated Robbery – Class A felony	For Class C offenses, consider circumstances such as how long ago the crime occurred and if one-time offense. Get clarification from the applicant.	Hire – No , regardless of Class if the position the person is to fill involves responsibility for fiscal or physical assets of the University. (See list.) Hire – No , if Class B or A Hire – Maybe if Class C and circumstances merit

		consideration and the position is not on the list.
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Offenses Against Property

The more common offenses against property and involving dishonesty and breach of trust include, but are not limited to the following:

Shoplifting/Petty Theft – misdemeanor if \$500 or less	Consider age of person when the crime was committed, how long ago, repeat offenses, location of the crime, associated charges for which there was a conviction.	Hire - Maybe Decision to hire may be supported if the offense was committed at a young age, happened only once, several years ago with no repeat offenses.
Theft – felony if more than \$500	Consider circumstances such as how long ago the crime occurred and if one-time offense. Determine the amount of the theft in excess of \$500 (ex. Felonies range from Class E less than \$1000 to Class B for \$60,000 or more.) May want to get clarification from the applicant.	Hire – Probably Not Decision to hire would be difficult to support unless extenuating circumstances merit. Full documentation of reasoning would be approved by Legal and put in the employee’s file
Embezzlement, Forgery, Fraud	Consider circumstances such as how long ago the crime occurred and if one-time offense. Get clarification from the applicant as to amounts involved and other related information.	Hire – No , if the position the person is to fill involves responsibility for fiscal or physical assets of the University. (See list.) Hire – Maybe if circumstances merit consideration and the position is not on the list.
Burglary – Class D or E felony	For Class C, D, or E offenses, consider circumstances such as how long ago the crime occurred and if one-time offense. Get clarification from the applicant.	Hire – No , regardless of Class if the position the person is to fill involves responsibility for fiscal or physical assets of the University. (See list.)
Aggravated Burglary –		Hire – No , if Class B or C.

Class C felony Especially Aggravated Burglary – Class B felony		Hire – Maybe if Class D or E and circumstances merit consideration and the position is not on the list.
Auto Theft – a felony	Due to the number of automobiles parked on campus every day and the high number of auto thefts and attempted auto thefts in campus parking lots, such individuals would be considered a risk to our student population and others on campus.	Hire - No
Arson – Class C felony Arson – Class B felony Aggravated Arson – Class A felony	For Class C, consider circumstances such as how long ago the crime occurred, age at time of offense, and if one-time offense. Get clarification from the applicant. Class B arson involves arson of a place of worship, and Aggravated Arson involves serious bodily injury as a result of the fire.	Hire – No , if Class A or B Hire – Maybe if Class C and circumstances merit consideration.

List of Positions for which applicants are precluded from consideration due to convictions for crimes involving Dishonesty/Breach of Trust:

Police Officers

Positions that require that the employee carry master/grand master keys to buildings on campus

Locksmiths and employees who control key logs and codes

Money handling positions such as Window Teller and others that take cash for tickets, goods, or services (Bursar’s Office, Athletics, University Center, Continuing Education)

Positions in supply rooms and with responsibility for inventory control

Positions in Central Receiving

Building Activity Attendants

Tiger Patrol Students

Lipman and Campus School Staff, including Student Workers

Day Care Center Staff, including Student Workers

Drugs

Simple possession – a misdemeanor	Consider the circumstances such as age, how long ago, frequency.	Hire – Maybe Decision to hire may be supported if the offense was committed at a young age, happened only once several years ago with no repeat offenses.
Possession with Intent to Sell – a felony	Applicants with a record of convictions for possession with intent to sell or are serious and would be considered a risk to our student population and others on campus.	Hire - No

DUI

Driving Under the Influence	Consider the position that the applicant would fill.	Hire – Maybe , unless the position requires valid Commercial Driver’s License (CDL), regular driver’s license to perform certain duties in the job, or operation of heavy machinery/equipment.
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Other

A variety of criminal convictions will be assessed on a case by case basis, considering the age of the person when the offense was committed, how long ago it occurred, whether there have been repeated similar offenses, etc.

For full information and definition refer to Tennessee Code Annotated publication.